

# **DEFICIENCY PROGRESS REPORT – UPDATE 1**

December 8, 2008

**CUPA: FRESNO COUNTY DIVISION OF ENVIRONMENTAL HEALTH**

**Evaluation Date: May 7 and 8, 2008**

**Evaluators:** Jennifer Lorenzo, Cal/EPA  
Asha Arora, DTSC  
Fred Mehr, OES  
Sean Farrow, SWRCB

**Update 1 Submittal Date:** October 30, 2008

**Status:** Deficiencies 1, 2, 3, 5, 8, and 11 remain outstanding.

**Next Progress Report (2<sup>nd</sup> Update) Due:** **January 28, 2009**

1. **Deficiency:** The CUPA has not fully developed and implemented a procedure for issuing a Unified Program facility permit.

**Corrective Action:** By May 8, 2009, the CUPA will fully implement a consolidated permitting process for its regulated community. By July 30, 2008, the CUPA will meet and confer with its Envision management staff regarding the issuance of a Unified Program Facility Permit using the existing database management system. Beginning October 30, 2008, the CUPA will submit a report of their progress toward correcting this deficiency, including a sample Unified Program Facility Permit recently issued, if available.

**CUPA Update 1:** The CUPA met with its Envision management staff regarding the issuance of a Unified Program Facility Permit using the existing database management system. A draft copy of the Unified Program facility permit is attached to this report. Full implementation of the permit is anticipated to begin well prior to the May 8, 2009 deadline.

**Comments to Update 1:** *The CUPA has made progress toward correcting this deficiency; however, this deficiency remains in the process of being corrected. On the next update, due January 28, 2009, please continue to update Cal/EPA on the CUPA's progress.*

2. **Deficiency:** The CUPA's Inspection and Enforcement (I&E) Program Plan does not contain some required elements.

**Corrective Action:** By December 27, 2008, the CUPA will revise its I&E Program Plan to include all the required elements.

**CUPA Update 1:** PENDING - By December 27, 2008, the CUPA will revise its I&E Program Plan to include all the required elements.

**Comments to Update 1:** *In the next progress report, due January 28, 2009, please update Cal/EPA on the status of this deficiency, including a revised I&E Program Plan, if available.*

3. **Deficiency:** The CUPA is not inspecting all stationary sources at least once every three years.

**Corrective Action:** By October 30, 2008, the CUPA will develop and submit an action plan outlining how the CUPA will inspect all of the stationary sources once every three years. Beginning October 30, 2008, the CUPA will submit a report of their progress, including the number of facilities inspected.

**CUPA Update 1:** An action plan has been developed outlining how the CUPA will inspect all of the stationary sources once every three years.

ACTION PLAN DETAIL: 120 CalARP facilities exist, 20 have been inspected and 100 are due for inspection, 33 to 35 sites will be identified a year for inspection and audit. A minimum of 2-3 facilities will be inspected per month by the each staff person assigned to the program.

**Comments to Update 1:** *The CUPA has developed an action plan to inspect all CalARP facilities at least once every three years. This deficiency remains in the process of being corrected. OES looks forward to following the CUPA's progress on inspecting its facilities. On the next update, due January 28, 2009, please include the total number of CalARP facilities and the number of facilities inspected for compliance.*

4. **Deficiency:** The CUPA has not performed an annual California Accidental Release Prevention (CalARP) performance audit.

**Corrective Action:** By September 30, 2008, the CUPA will perform an annual CalARP performance audit. At the CUPA's option, this information may subsequently be included with the annual California Code of Regulations title 27 Self-Audit Report.

**CUPA Update 1:** (This deficiency has been corrected.) An annual CalARP performance audit was included with the annual California Code of Regulations title 27 Self-Audit Report.

**Comments to Update 1:** *This deficiency has been corrected; no further update is required.*

5. **Deficiency:** The CUPA is not inspecting all regulated businesses subject to the hazardous materials reporting requirements, including farms, at least once every three years.

**Corrective Action:** By October 30, 2008, the CUPA will develop and submit an action plan outlining how the CUPA will inspect all of the regulated businesses once every three years. Beginning October 30, 2008, the CUPA will submit a report of their progress, including the total number of business plan facilities and the number of facilities inspected for compliance.

**CUPA Update 1:** An action plan has been developed outlining how the CUPA will inspect all of the Hazardous Material Business Plan (HMBP) once every three years.

ACTION PLAN DETAIL: 2197 HMBP facilities exist, 835 have been inspected and 1362 are due for inspection, 450-460 sites will be identified a year for inspection and audit. An average of 8-10 facilities will be inspected per month by each of 7 staff assigned to the program.

**Comments to Update 1:** *The CUPA has developed an action plan to inspect all business plan facilities at least once every three years. This deficiency remains in the process of being corrected. OES looks forward to following the CUPA's progress on inspecting its facilities. On the next update, due January 28, 2009, please include the total number of business plan facilities and the number of facilities inspected for compliance.*

6. **Deficiency:** The CUPA is exempting facilities that handle, store and/or use carbon dioxide without following the correct process for allowing this exemption.

**Corrective Action:** This deficiency was corrected on June 9, 2008.

7. **Deficiency:** The CUPA is allowing underground storage tank (UST) facilities to operate with expired operating permits.

**Corrective Action:** By August 30, 2008, the CUPA will go through its files and identify the UST facilities that have not been issued current UST operating permits. Beginning October 30, 2008, the CUPA will update Cal/EPA and SWRCB on the status of bringing those facilities into compliance.

**CUPA Update 1:** The CUPA has reviewed all the UST facility files and identified those UST facilities that have not been issued current UST operating permits. Appropriate enforcement actions have been initiated.

**Comments to Update 1:** *SWRCB considers this deficiency corrected; no further update is required.*

8. **Deficiency:** The CUPA is not re-inspecting UST facilities to verify that violations have been corrected.

**Corrective Action:** Beginning May 9, 2008, the CUPA will re-inspect UST facilities that were cited for violations. If the re-inspection of UST facilities becomes unmanageable and if violations are minor, the CUPA will follow its I&E Program Plan. By October 30, 2008, the CUPA will submit the number of UST facilities that were cited for violations and the number of facilities that have returned to compliance.

**CUPA Update 1:** The CUPA has begun to re-inspect UST facilities that were cited for violations. In addition violation tracking has been initiated in the Envision database. Staff now enters the violation and degree as they complete their daily reports.

**ACTION PLAN DETAIL:** 433 UST facilities exist, 70 have been inspected to date in Fiscal Year 2008/09 and 362 are due for inspection in the remainder of the year, on average 45 facilities will be inspected each of the remaining 8 months of the current fiscal year.

**Comments to Update 1:** *In the corrective action, the SWRCB requested that the CUPA submit number of UST's that were cited for violations and the number of facilities that have returned to compliance. On the next progress report, please submit the number of UST's that were cited for violations and the number of facilities that have returned to compliance.*

- 9. Deficiency:** The CUPA is not ensuring that Unified Program Consolidated Forms (UPCF's) received from UST businesses are complete.

**Corrective Action:** By May 8, 2009, the CUPA will ensure that all UPCF's are completely filled out. As facility inspections arise, review the UPCF's and ensure that all elements of the forms are complete and are as accurate as possible. Beginning October 30, 2008, the CUPA will update Cal/EPA and SWRCB on the status of bringing those facilities into compliance.

**CUPA Update 1:** The CUPA has already initiated the corrective action by having staff as facility inspections arise, review the UPCF's and ensure that all elements of the forms are complete and are as accurate as possible. See action plan detail in deficiency 8 for details.

**Comments to Update 1:** *The SWRCB considers this deficiency to be corrected, provided that the inspection staff is using the updated UPCFs.*

- 10. Deficiency:** UST plot plans reviewed did not contain all the required elements or were missing altogether.

**Corrective Action:** By May 8, 2009, the CUPA will ensure that all UST plot plans are complete. As facility inspections come up, check for file completeness and update as necessary. Beginning October 30, 2008, the CUPA will update Cal/EPA and SWRCB on the status of bringing those facilities into compliance.

**CUPA Update 1:** The CUPA has already begun to ensure that all UST plot plans are complete. As facility inspections come up, staff has checked for file completeness and update as necessary.

**Comments to Update 1:** *The SWRCB considers this deficiency to be corrected; no further update is required.*

- 11. Deficiency:** The CUPA is not conducting hazardous waste generator inspections with a frequency consistent with its I&E Program Plan, which is triennial.

**Corrective Action:** The CUPA will prioritize inspections based on the risk and complexity of the facilities, including Resource Conservation Recovery Act (RCRA) large quantity generators (LQG's). Beginning October 30, 2008, the CUPA will provide the number of inspections conducted.

**CUPA Update 1:** The CUPA has prioritized inspections based on the risk and complexity of the facilities, including Resource Conservation Recovery Act (RCRA) large quantity generators (LQG's).

ACTION PLAN DETAIL: 1281 hazardous waste generators in the county, 554 have been inspected and 757 are due for inspection, 250-275 sites will be identified a year for inspection. An average of 3-5 facilities will be inspected per month by each of the 7 staff assigned to the program.

**Comments to Update 1:** *DTSC appreciates the CUPA's efforts in continuing to identify and prioritize LQG inspections. However, this deficiency remains in the the CUPA has inspected about 20.8% of their hazardous waste generators (HWG) during fiscal year 07/08; which remain below the CUPA's triennial inspection frequency goal for the HWG program. Submit a status of the CUPA's progress in implementing their plan on the next progress report.*

- 12. Deficiency:** The CUPA has not submitted quarterly inspection or enforcement reports for RCRA LQG's since October 2006.

**Corrective Action:** Beginning August 1, 2008, the CUPA will submit LQG reports to DTSC and, subsequently, on a quarterly basis thereafter. As a reminder, the reports must be submitted to DTSC quarterly, on February 1, May 1, August 1, and October 15. If the CUPA did not do any inspections or take any enforcement at a RCRA LQG facility, please submit a notice letting DTSC know that the CUPA did not have any activities to report by sending an email to Asha Arora at aarora@dtsc.ca.gov or Maria Soria at msoria@dtsc.ca.gov.

**CUPA Update 1:** The CUPA has submitted LQG reports to DTSC and will subsequently on a quarterly basis. The CUPA developed a specific program element to identify all RCRA-LQG facilities and track activity at those sites for the reporting. This deficiency has been corrected.

**Comments to Update 1:** *The CUPA has satisfactorily corrected this deficiency. No further update is required.*

**13. Deficiency:** The CUPA is not inspecting its TP facilities at least once every three years.

**Corrective Action:** The CUPA will complete inspections of all TP facilities within a three-year inspection cycle. The CUPA will prioritize inspections based on the risk and complexity of the facilities. By October 30, 2008, the CUPA will provide the total number of TP facilities and number of compliance inspections conducted.

**CUPA Update 1:** The CUPA has completed all inspections of all TP facilities within a three-year inspection cycle. This deficiency has been corrected.

**Comments to Update 1:** *The CUPA has satisfactorily corrected this deficiency. No further update is required.*

**14. Deficiency:** The CUPA is not citing violations in a manner consistent with the definition of a minor, Class II or Class I as provided in statutes and regulations.

**Corrective Action:** The CUPA will refresh staff knowledge of the definitions of Class I, Class II and minor violations. A good tool for refresher training may include covering the Cal/EPA "Violation Classification Guidance Document for Unified Program Agencies," which is available on the Cal/EPA Web site under Unified Program-Publications and Forms. By October 30, 2008, the CUPA will provide violation determination and TP training to its inspectors.

**CUPA Update 1:** On July 23, 2008 the CUPA staff received training on hazardous waste requirements with an emphasis on RCRA requirements and treatment rules. All staff assigned to the inspection of hazardous waste generators attended the training. In addition violation tracking has been initiated in the Envision database. Staff now enters the violation and degree as they complete their daily reports.

**Comments to Update 1:** *The CUPA has satisfactorily corrected this deficiency. No further update is required.*